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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,531	10/16/2003	Gerald Duhamel	P1017US01	4017
77130 7590 04/27/2009 LABTRONIX CONCEPT C/O BENOFF & COTE, s.c.n.c. 1001, DE MAISONNEUVE BOULEVARD WEST SUITE 210 MONTREAL, QC H3A 3C8 CANADA				
EXAMINER HYLINSKI, STEVEN J				
ART UNIT 3714		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/686,531

**Applicant(s)**

DUHAMEL ET AL.

**Examiner**

STEVEN J. HYLINKI

**Art Unit**

3714

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 44-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SD/CS)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 03/10/2009 have been fully considered but they are not persuasive. Examiner never stated nor implied in the arguments of the Office Action mailed 12/10/2008 that Gentles did not support sending a single packet. At that point in time, the argument was over whether Gentles sent and received an "encapsulated variable-sized data structure". Examiner pointed out that the claim language, which at that point did not appear to require a single packet despite arguments presented to the contrary, would for example, encompass more than one packet, which a gaming network that used such as TCP/IP (fixed length packets by definition) to form packetized data, would meet. A single packet was not required to be considered and was not specifically contemplated at the time of the 12/10/2008 Office Action.
2. To address the new limitation of the game data, being encapsulated into a single packet, it is understood that Gentle's system that converts game data into "packetized" data, must create **at least one packet** by the definition of packetizing. Gentles states in Paragraph 53, "Fundamentally, tunneling protocols send packetized encrypted gaming data to and from the gaming terminal(s) **22** and gaming server(s) **28** through a "tunnel" [...]. "A data packet, by definition in the art, can be either fixed or variable length (the NPL art already of record as of the previous action, "What is a Packet" from HowStuffWorks.com, states that packets function by breaking a file "into parts of certain sizes" and that "a typical packet contains perhaps 1,000 or 1,500 bytes." This document also defines the payload of a packet as such. "Payload – Also called the body or data of

a packet. This is the actual data that the packet is delivering to the destination. ***If a packet is fixed length, then the payload may be padded with blank information to make it the right size.***” (emphasis added). Therefore packet sizing is twofold – based on both the size of the payload, and, optionally, a fixed length limitation imposed by the protocol (such as TCP/IP).

3. In the case of Gentles, the payload of his packet is the different types of game data that he describes in Paragraph 54. There are two ways in which Gentles' system can contain the entire payload in a single packet. The first way, according to the definition of how packets work as illustrated in the NPL document, is for the size of a fixed-length packet to be larger than its payload (indicated by the padding that would be required in this situation, as described above.) The second way, also according to art-recognized definitions of how packets work, is for a variable-length packet to be sized such that the packet size accommodates the entire payload with no slack.

4. Either of the options is possible in Gentles' because it is inherent that in a packetizing process, either fixed or variable length packets must be used, which by definition, either can have the payload at least large enough that all of the data from a file can fit into a single packet.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**6. Claims 44-46 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2004/0266533 to Gentles et al.**

**Re Claim 44,**

7. Gentles discloses a method of playing an electronic game comprising the steps of on a gaming terminal, receiving from a player a play request for play of an electronic game (as shown in Fig. 1, player 40 can utilize the gaming terminal(s) 12, using the access control apparatus 25), communicating the play request to a server and receiving from a server an encapsulated variable-size data structure communicated in a single data packet. In the case of Gentles, the payload of his packetized data of Paragraph 53, is the different types of game data that he describes in Paragraph 54. There are two ways in which Gentles' system can contain the entire payload in a single packet. The first way, as evidenced by the definition of how data packets work in the NPL document, is for the size of a fixed-length packet to be larger than its payload, because fixed-length packets can be different overall sizes. The second way, also according to art-recognized definitions of how packets function, is for a variable-length packet to be sized such that the packet size accommodates the entire payload with no padding of the packet. Packets do not, by definition in the art, have to be multiple small packets with the payload spanning them. It is inherent that in a packetizing process, one of fixed or variable length packets must be used, and sizing either the fixed or variable packet according to its payload, can yield a single packet containing the entire payload of a

file.) in response to said play request (Paragraphs 53-54, encapsulated game data is sent over network **20** from the gaming server **28** to gaming machines **22**, where the encapsulated data must subsequently be analyzed, ie. decoded. Fig. 10 shows that a value input being detected in block **1002** initiates the game, which as disclosed in Paragraph 179 can be fed to the gaming machine from servers. Paragraph 179 specifically discloses that the servers can compile the gaming software and/or data independently, to direct the game on each gaming machine); the encapsulated variable-size data structure having an outcome value (Paragraph 179 discloses that the gaming software and data compiled specifically by a server to direct the execution of the gaming machine, executes the game and can control the currency device. This gaming data used to instruct the gaming machine and output device can include "electronic transfer of funds" and "game outcomes for systems having central determination".) analyzing the content of the encapsulated variable-size data structure, for therefore identifying data representative of a play of a primary outcome, and if present data representative of a play of a secondary outcome (Paragraph 54 discloses that the encapsulated game data sent through the secure tunnel from the server to the gaming terminal can include the game outcomes in addition to game software and data, this data being used to direct a gaming machine how to execute a game as disclosed in Paragraph 179. Figs. 8 and 10 show that a primary game as used in Gentles' system can trigger a secondary (bonus) game within the same instance of gaming, the secondary game having a distinct outcome that may be added to the player's credits which will be paid out.), providing a play sequence in correlation with the data representative of the play of the primary

outcome and a primary outcome value (Figs. 8 and 10); if data representative of the play of a secondary outcome is present, providing a subsequent play sequence for each secondary outcome each providing a secondary outcome value (Figs 8 and 10 show a gaming sequence that can be carried out by Gentles system using encapsulated game data, software, and outcomes to direct a gaming machine to execute the game, as discussed in Paragraphs 53-54 and 179); and providing the sum of primary and secondary outcome values to the player, the primary and secondary outcome values summing up to the outcome value (Figs. 8 and 10, the player is paid after playing the base and any bonus game, and after winning any base and bonus credits credited to the player).

**Re Claim 45,**

Gentles discloses a game representation comprising a representation of a primary outcome value in relation with said play sequence provided for said primary outcome value (Fig. 10, after the reels are spun, it is evaluated in block **1012** whether any wins exist according to the payable, and if so, crediting the player based on the payable). Gentles also discloses modifying the game representation between the representation of the primary outcome value and if any secondary outcome value, a representation of the secondary outcome (Block **1016** shows that a bonus game *may* be triggered, which can have a "win per bonus game" in block **1020** and subsequently, credits added based on the payable (block **1022**). Finally Gentles discloses when any secondary outcome value occurs, providing the modified game representation in

relation with said play sequence provided for the secondary outcome value (block 1018, the bonus game is played if triggered).

**Re Claim 46,**

See the rejection of claim 44 above. Additionally, Fig. 10 of Gentles shows that the bonus game, as dependent on the base game that triggered it, can have the base and bonus games provided in sequence (Fig. 10).

***Conclusion***

8. This is a continuation of applicant's earlier Application No. 10/686531. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN J. HYLINSKI whose telephone number is (571)270-1995. The examiner can normally be reached on M-Thurs. 7:00a-5:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on 571-272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/  
Supervisory Patent Examiner, Art Unit 3714

/Steven J Hylinski/  
Examiner, Art Unit 3714